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United States Southern Command FACT SHEET



The Uniformed Code of Military Justice, Article 32 Hearings, and Articles Preferred Against Chaplain (CPT) James Yee

Purpose of the UCMJ:

The Uniform Code of Military Justice (UCMJ) is the military's criminal code. It was enacted in 1950 and became effective in 1951. It has been amended since then, with major changes in 1968 and 1983. The UCMJ, which is part of the US Code (USC), is implemented through executive orders of the President. Those executive orders form a comprehensive volume of law known as the Manual for Courts-Martial (MCM).

The MCM's preamble explains that the purpose of military law "is to promote justice, to assist in maintaining good order and discipline in the armed forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States." In the opinion of many legal scholars, the UCMJ has not only kept pace with innovations in civilian criminal jurisprudence, but has actually led the way, establishing more safeguards to protect the rights of those accused of criminal offenses. For instance, the military had its own broader version of the "Miranda rights" fifteen years before the US Supreme Court recognized that right for civilian suspects. In addition, an accused facing the potential of a general court-martial (the most serious level of courts-martial) has far greater rights during a pretrial "Article 32" investigation than does a civilian suspect before a grand jury, the civilian counterpart.

Almost annually, changes are made to both the UCMJ and the MCM. These changes are typically in the form of "fine-tuning," but also occasionally encompass more sweeping changes. The individual services provide inputs for proposed changes through the Joint Service Committee on Military Justice. The public may comment on proposed changes. In addition to the UCMJ and the MCM, one should not overlook appellate court decisions by the each Military Department's Court of Criminal Appeals, the United States Court of Appeals for the Armed Forces, and the United States Supreme Court.

Article 32 Investigation:

Before a case can be referred to a general court-martial, an Article 32 investigation must be held, unless waived by the accused. The purpose is to inquire into the truth of the charges, the form of the charges, whether further charges should be considered and a recommendation as to the disposition of the charges that should be made in the interest of justice and discipline. An accused has various rights at the Article 32 hearing, including the right to be present with counsel, to cross examine witnesses if they are available, and to present anything he or she may desire in his or her own behalf.

Article 92: Failure to Obey Order or Regulation

A member who violates or fails to obey any lawful general order or regulation; or, having knowledge of any other lawful order, fails to obey the order; or is derelict in the performance of his or her duties, violates Article 92.